

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Paper 1
Filed: August 27, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JOHN EMERY, KB TAN, ALEM TRUNEH,
AND PETER YOUNG
Junior Party
(U.S. Patent 5,885,800),

v.
REINER GENTZ, REINHARD EBNER, GUO-LIANG YU,
STEVEN M. RUBEN, JIAN NI AND PING FENG
Senior Party
(U.S. Patent Application 09/006,352).

Patent Interference No. 105,701 (MPT)
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. '41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 Part A. Declaration of interference

2 An interference is declared (35 U.S.C. § 135(a)) between the above-
3 identified parties. Details of the application(s), patent (if any), reissue application
4 (if any), count(s) and claims designated as corresponding or as not corresponding
5 to the count(s) appear in Parts E and F of this DECLARATION.

6 Part B. Judge managing the interference

7 Administrative Patent Judge Michael P. Tierney has been designated to
8 manage the interference. Bd. R. 104(a).

9 Part C. Standing order

10 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
11 DECLARATION. The STANDING ORDER applies to this interference.

12 Part D. Initial conference call

13 A telephone conference call to discuss the interference is set for 2:00 p.m. on
14 October 22, 2009 (the Board will initiate the call).

15 No later than four business days prior to the conference call, each party shall
16 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
17 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18 A sample schedule for taking action during the motion phase appears as
19 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
20 schedule prior to the conference call and to agree on dates for taking action.

1 A typical motion period lasts approximately eight (8) months. Counsel should be
2 prepared to justify any request for a shorter or longer period.

3 Part E. Identification and order of the parties

4 Junior Party

5 Named Inventors: JOHN EMERY, WYNNEWOOD, PA
6 KB TAN, PHILADELPHIA, PA
7 ALEM TRUNEH, WEST CHESTER, PA
8 PETER YOUNG, LAWRENCEVILLE, NJ
9 Involved Patent: U.S. Patent 5,885,800, issued on
10 March 23, 1999, based upon
11 U.S. Application 08/794,796
12 filed February 4, 1997
13 Title: DNA Encoding Tumor Necrosis Related Receptor,
14 TR4
15 Assignee: SmithKline Beecham Corporation

16
17 Senior Party

18 Named inventors: REINER GENTZ, SILVER SPRING, MD
19 REINHARD EBNER, GAITHERSBURG, MD
20 GUO-LIANG YU, DARNESTOWN, MD
21 STEVEN M. RUBEN, OLNEY, MD
22 JIAN NI, ROCKVILLE, MD
23 PING FENG, GAITHERSBURG, MD
24

Involved Application: U.S. Application 09/006,352
filed January 13, 1998
Title: Tumor Necrosis Factor Receptors 6 α & 6 β
Assignee: Human Genome Sciences

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

Part F. Count and claims of the parties

Count 1

A polynucleotide according to claim 4 of U.S. Patent 5,885,800 or claim 40 of U.S. Application 09/006,352.

The claims of the parties are:

Emery '800: 1-16

Gentz '352: 24-117, 285, 287, 291, 292, 295, 297 and 302-305

The claims of the parties which correspond to Count 1 are:

Emery '800: 2, 4-8 and 11-16

Gentz '352: 24-117, 285, 291, 292, 295, 297 and 302-305

1 The claims of the parties which do not correspond to Count 1, and therefore
2 are not involved in the interference, are:

3 Emery '800: 1, 3, and 9-10

4 Gentz '352: 287

5 The parties are accorded the following benefit for Count 1:

6 Emery is accorded benefit of the filing date of the earlier filed
7 application:

8 None

9 Gentz is accorded benefit of the filing date of the earlier filed
10 application:

11 U.S. Provisional Application 60/035,496, filed January 14, 1997.

1 Part G. Heading to be used on papers

2 The following heading must be used on all papers filed in this interference,
3 see SO ¶ 106.1.1:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JOHN EMERY, KB TAN, ALEM TRUNEH,
AND PETER YOUNG
Junior Party
(U.S. Patent 5,885,800),

v.

REINER GENTZ, REINHARD EBNER, GUO-LIANG YU,
STEVEN M. RUBEN, JIAN NI AND PING FENG
Senior Party
(U.S. Patent Application 09/006,352).

Patent Interference No. 105,701 (MPT)
(Technology Center 1600)

1 Part H. Order form for requesting file copies

2 When requesting copies of files, use of SO Form 4 will greatly expedite
3 processing of the request. Please attach a copy of Parts E and F of this
4 DECLARATION with a hand-drawn circle around the patents and applications for
5 which a copy of a file wrapper is requested.

6
7 /Michael P. Tierney/
8 Administrative Patent Judge
9

10 Enc:

11 Copy of STANDING ORDER
12 Copy U.S. Patent 5,885,800
13 Copy of claims of U.S. Application 09/006,352
14

15
16 Revised 3 January 2006
17

18
19 cc (via overnight delivery):
20

21 Attorney for Emery:
22

23 William T. Han, Esq.
24 SmithKline Beecham Corporation
25 P.O. Box 1539
26 King of Prussia, PA 19406-0939
27

28 Attorney for Gentz:
29

30 Human Genome Sciences, Inc.
31 Intellectual Property Department
32 14200 Shady Grove Road
33 Rockville, MD 20850